

**Minutes  
City Council/Redevelopment Agency  
City of Huntington Beach**

Tuesday, January 20, 2004  
5:00 P.M. - Room B-8  
7:00 P.M. - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

An audiotape of the 5:00 p.m. portion of this meeting  
and a videotape of the 7:00 p.m. portion of this meeting  
are on file in the Office of the City Clerk.

**Call to Order**

Mayor Green called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 5:00 p.m. in Room B-8.

**City Council/Redevelopment Agency Meeting Roll Call**

Present: Sullivan, Coerper, Hardy, Green, Cook (Houchen arrived at 5:10 p.m.)  
Absent: Boardman

**Assistant City Clerk Announced Late Communications Submitted During the Study Session Portion of the Meeting**

Pursuant to the Brown (Open Meetings) Act, Assistant City Clerk Liz Ehling announced Late Communications regarding agenda items that had been received during the Study Session portion of the meeting.

Communication consisting of a packet of collateral material submitted during the Study Session portion of the meeting by the South Coast Air Quality Management District (SCAQMD) (undated) titled *AQMD South Coast Air Quality Management District Cleaning the Air We Breathe...* describing methods used by the AQMD.

Communication submitted during the Study Session portion of the meeting by Russell Reinhart, representing the Huntington Beach Police Officers Association (HBPOA), regarding the Labor Relations Closed Session agenda item (undated) including CalPERS Health Plan – Blue Cross Brochure and Benefit Computation Sheet.

**Public Comments**

**Russell Reinhart**, representing the Huntington Beach Police Officers Association (HBPOA), announced Safety Associations' recommendation for CALPERS as an employee health benefit plan. Officer Reinhart distributed a brochure and computation benefit sheet, and responded to Mayor Cathy Green's inquiries regarding the Late Communication he presented.

**Eileen Murphy**, spoke regarding Southern California Water Company and requested Council to deny its proposed pipeline project. She stated reasons why she believes the proposed project would be unfavorable to the City of Huntington Beach. Ms. Murphy informed Council of reasons the Bolsa Chica Land Trust was formed.

**Chuck Scheid** spoke in opposition to Ordinance No. 3633 relative to public assembly, scheduled on the 7:00 p.m. portion of the agenda.

City Administrator Ray Silver announced the removal from the agenda of the item concerning the Rainbow Disposal trash collection.

Councilmember Pam Houchen requested that the item regarding Rainbow Disposal trash collection donation remain on the agenda for discussion and possibly for voting on by Council.

**(City Council/Redevelopment Agency) Study Session Held – Presentation Made by Mission Viejo Councilmember Regarding Overview of (SCAQMD) South Coast Air Quality Management District Policies and Future Direction – Report To Be Presented Re: Issue of Moratorium (520.75)**

Air Quality Management District Governing Board Member/Mission Viejo Council Member William Craycraft presented a PowerPoint report dated January 20, 2004 titled *Introducing the AQMD* which was included on the Late Communication memo previously distributed. The report was regarding the focus and direction of the South Coast Air Quality Management District as well as the resources available to the city.

Mr. Craycraft introduced Debra L. Reed, Senior Public Information Specialist, who is the District's liaison to the City.

A South Coast Air Quality Management representative will return to Council at a date uncertain regarding the issue of a moratorium on the generating plant.

**Motion to Recess to Closed Session – Approved**

A motion was made by Cook, second Houchen to recess to Closed Session on the following items. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Cook, Houchen

NOES: None

ABSENT: Boardman (arrived during Closed Session)

**City Council) Closed Session** – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is **Southern California Water Company v. City of Huntington Beach, et al.**; Orange County Superior Court Case No. 03CC02021. **Subject:** Southern California Water Company v. City of Huntington Beach, et al. (120.80)

**(City Council) Closed Session** – Pursuant to Government Code Section 54957.6 to meet with its designated representatives: Agency Negotiators: Ray Silver, City Administrator; William Workman, Assistant City Administrator; Clay Martin, Director of Administrative Services; Jim Engle, Director of Community Services; Kenneth Small, Chief of Police; Duane Olson, Fire Chief; and Steven M. Berliner, Esq. and Bruce Barsook, Esq. of Liebert Cassidy Whitmore regarding **labor relations matters – meet and confer** with the following employee organizations: **MEO, MEA, PMA, FMA, HBPOA, HBFA, MSOA, SCLEA and Non-Associated.** (120.80)

**(City Council) Closed Session** – Pursuant to Government Code Section 54956.9(c) to confer with its attorney regarding pending litigation. Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation. Number of Potential Cases: **one.** **Subject: Potential Litigation re: Appeal of Notice of Violation and Order Issued by Santa Ana Regional Water Quality Board.** (120.80)

**Reconvened City Council/Redevelopment Agency Meeting – 7:40 P.M. – Council Chambers.**

#### **City Council- Redevelopment Agency Roll Call**

Present: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen  
Absent: None

**(City Council) City Attorney's Report of Action Taken by the City Council in Closed Session on Tuesday, January 20, 2004, Pursuant to Government Code §54957.1(a) (2) Re: Southern California Water Company v. City of Huntington Beach, et al.; Orange County Superior Court Case No. 03CC02021 ( . )**

City Attorney Jennifer McGrath announced that on Tuesday, January 20, 2004, the City Council convened in Closed Session to discuss litigation regarding Southern California Water Company vs. City of Huntington Beach, Orange County Superior Court Case No. 03CC02021. City Attorney McGrath handed Assistant City Clerk Liz Ehrling the related communication titled *(Appeal) Report of Action Taken Pursuant to Government Code Section 54957.1(a)(2); January 20, 2004, City Council Closed Session* which reflected her oral statement.

The communication dated January 20, 2004 reads as follows: On Tuesday, January, 20, 2004 the City Council convened in closed session to discuss whether or not to defend, or seek or refrain from seeking appellate review of relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 in the matter of Southern California Water Company vs. City of Huntington Beach, Orange County Superior Court Case No. 03CC02021. This case is [identity of adverse party(s) & substance of litigation] where the City was sued by Southern California Water Company because of the denial of its franchise application.

The City Council voted to authorize an appeal of the decision.

The Council voted as follows: 5 Ayes; 2 Noes.

Ayes: Sullivan, Hardy, Boardman, Cook, Houchen. Noes: Coerper, Green

**(City Council) City Attorney's Report of Action Taken by the City Council in Closed Session on January 20, 2004 (Pursuant to Government Code §54957.1(a) (2) Re: Potential Litigation - Appeal of Notice of Violation and Order Issued by Santa Ana Regional Water Quality Board. (120.80)**

City Attorney Jennifer McGrath reported that on Tuesday, January 20, 2004 the City Council convened in Closed Session to discuss the matter of potential litigation regarding **Appeal of Notice of Violation and Order Issued by Santa Ana Regional Water Quality Board**. City Attorney Jennifer McGrath handed Assistant City Clerk Liz Ehling the related communication titled *(Initiate Litigation) Report of Action Taken Pursuant to Government Code Section 54957.1(a)(2); January 20, 2004, City Council Closed Session* which reflected her oral statement.

The communication dated January 20, 2004 reads as follows: On Tuesday, January 20, 2004, the City Council convened in closed session to discuss whether to initiate litigation regarding the matter of notice of violation received by City from Regional Water Quality Control Board on December 23, 2003.

The City Council voted to appeal the notice of violation and order.

The Council voted as follows: 6 Ayes. Councilmember Boardman was absent at vote.

**Pledge of Allegiance** – Led by Mayor Cathy Green

**Invocation** – Led by Brother Bill

**The Assistant City Clerk Announced Late Communications**

Pursuant to the Brown (Open Meetings) Act, Assistant City Clerk Liz Ehling announced Late Communications regarding agenda items that had been received by her office following distribution of the agenda packet:

Communication from the City Clerk's Office advising that agenda page number 2 had been revised following delivery of the Council packet last Wednesday. The revisions were to reflect the receipt of a PowerPoint document for the Study Session on the South Coast Air Quality Management District (SCAQMD) and to reflect the receipt of a Closed Session Potential Litigation.

PowerPoint slide show dated January 20, 2004 titled *Introducing the AQMD* submitted by Air Quality Management District Governing Board Member/Mission Viejo Council Member William Craycraft.

Communication submitted by the Department of Public Works dated January 20, 2004 titled *Request to Remove Item E-1 from City Council Agenda* requesting the item concerning Rainbow Disposal be removed from the agenda as it requires revisions. It is anticipated the item will be placed on the February 17, 2004 City Council agenda.

Communication submitted by Robert J. Stock of Gilbert & Sackman, A Law Corporation, dated January 20, 2004 titled *Ordinance No. 3633* in opposition to Ordinance No. 3633.

Communication submitted by Vicki Lindman dated January 15, 2004 titled *Ordinance 3633* in opposition to Ordinance 3633.

Communication submitted by Patrick W. Brenden dated January 15, 2004 titled *Ordinance 3633* in opposition to Ordinance 3633.

Communication submitted by Pat Goodman dated January 20, 2004 titled *Ordinance to Ban Sign Paraphanelia at Demonstrations* in opposition to Ordinance No. 3633.

Orange County Register article submitted by Councilmember Dave Sullivan dated August 26, 2003 titled *Newport sees strides in taming the Fourth* concerning safety on the Fourth of July.

Transmittal from Councilmember Sullivan of a memo from Police Chief Small dated January 15, 2004 titled *4<sup>th</sup> of July Costs 1995-2003*.

Communication consisting of a packet of collateral material submitted at the Study Session portion of the meeting by the South Coast Air Quality Management District (SCAQMD) (undated) titled *AQMD South Coast Air Quality Management District Cleaning the Air We Breathe...* describing methods used by the AQMD.

Communication submitted by Russell Reinhart, representing the Huntington Beach Police Officers Association (HBPOA), during the Study Session portion of the meeting regarding the Labor Relations Closed Session agenda item (undated) including CalPERS Health Plan – Blue Cross Brochure and Benefit Computation Sheet

**(City Council) Announcement Made by Mayor Cathy Green Regarding Recruitment of New City Administrator ( . )**

Mayor Cathy Green announced a Community Forum on Monday, January 26, 2004 at 6:30 p.m. in the Talbert Room, Central Library, for citizen participation in the recruitment of the next City Administrator.

**(City Council) Mayor Cathy Green Verified Agenda Item Being Returned to Agenda ( . )**

Mayor Cathy Green asked Councilmember Houchen if she requested the agenda item concerning Rainbow Disposal to be returned to the agenda.

Councilmember Houchen stated she did request the item be placed back on the agenda for discussion and a possible vote by Council.

**Presentation** made by Mayor Cathy Green to Pat Stier and members of the Fourth of July Parade Committee, a check for \$50,000.00 from nuVisions Financial Federal Credit Union representatives: Justin Weiler, Marketing and Business Development Officer, and Kerry Lewis, Vice President Chief Planning and Development Officer. The check is to sponsor the Huntington Beach Fourth of July Centennial Celebration. The Fourth of July Parade Committee announced that nuVisions Financial Federal Credit Union was named as the official credit union for the 2004 Centennial Fourth of July Parade. (160.40)

**Presentation** made by Mayor Cathy Green and Don MacAllister, Board Member of the Huntington Beach Surfing Walk of Fame, of several Huntington Beach Surfing Walk of Fame books to the city libraries, Sister Cities and Mayor Green. Mr. MacAllister described the book on surfing and announced the Surfing Walk of Fame's annual event on July 29, 2004. (160.40)

**Mayor's Award** presented by Mayor Cathy Green who was joined by Public Works Director Bob Beardsley to present the Mayor's Award to Landscape Lead Worker Rick Ayres from the Public Works Department. Mr. Beardsley described Mr. Ayres as a model employee who has provided dedicated service to the City of Huntington Beach for the past thirty-four years and who is instrumental in helping to keep our city beautiful. (160.40)

### **Public Comments**

**Norm Westwell**, representing the Libertarian Party of Orange County, spoke in opposition to proposed Ordinance No. 3633 as preemptive of freedom of speech and the right to public assembly. Mr. Westwell stated his belief that if the proposed ordinance is adopted it should include a "sunset clause" for revisiting in one year.

**Teddi Alves** stated her credentials as a political activist and spoke in opposition to proposed Ordinance No. 3633. She spoke concerning issues relating to the ordinance that she believes could prevent free speech.

**Margie Buntin**, representing the Fourth of July Board, spoke in favor of a proposed fireworks display at the beach for the City of Huntington Beach Fourth of July Parade Centennial celebration.

**Don Hyatt**, representing the United Food and Commercial Workers (U.F.C.W.), spoke in opposition to proposed Ordinance No. 3633 on behalf of the grocery strike picketers. Mr. Hyatt spoke concerning issues relating to the ordinance that he believes may prevent free speech.

**Justin Weiler** spoke in favor of a proposed Fourth of July fireworks display at the beach to commemorate the City of Huntington Beach Fourth of July Centennial.

**Derek Bercher** spoke in opposition to proposed Ordinance No. 3633. Mr. Bercher gave reasons why he believes the proposed ordinance poses constitutional issues.

**Ken Maylone** spoke in opposition to proposed Ordinance No. 3633. He stated his belief that there are existing laws for the same purpose. Mr. Maylone urged Council to reject the ordinance.

**Charlie LaChance**, representing United Food and Commercial Workers (U.F.C.W.) Local 324, spoke in opposition to proposed Ordinance No. 3633. Mr. LaChance gave reasons why he believes the proposed ordinance restricts freedom of speech. He urged Council not to adopt the proposed ordinance.

**Jim Adams**, representing the Los Angeles/Orange County Building and Construction Trades Council, cited paragraph (b) of proposed Ordinance No. 3633 and spoke in opposition to the proposed ordinance stating the section is too broad.

**Ron McLin**, representing the Downtown Restaurant Association spoke in favor of a proposed Fourth of July fireworks display at the beach to commemorate the City of Huntington Beach Fourth of July Parade Centennial. Mr. McLin announced March 28, 2004 at the Hyatt Resort and Spa as "A Taste of Huntington Beach Day."

**Tom Lash** spoke in opposition to proposed Ordinance No. 3633 as preemptive of freedom of speech and the right to public assembly. Mr. Lash gave reasons why he believes the proposed ordinance poses constitutional issues.

**Gaby Harris** spoke in opposition to proposed Ordinance No. 3633. She gave reasons why she believes the proposed ordinance restricts freedom of speech. She urged Council not to adopt the proposed ordinance.

**Julie Shipley** spoke in opposition to proposed Ordinance No. 3633. She spoke concerning issues relating to the ordinance that she believes could prevent free speech.

**Betsy Brown** spoke in opposition to proposed Ordinance No. 3633. She stated her belief that there are existing laws for the same purpose. Ms. Brown gave reasons why she believes the proposed ordinance poses constitutional issues and urged Council to reject the ordinance.

**Roz Freeman** spoke in opposition to proposed Ordinance No. 3633. Ms. Freeman spoke regarding issues relating to the ordinance that she believes could prevent free speech and the right to public assembly.

**Erik Faraldo**, representing Los Amigos of Orange County, stated his belief that issues relating to the proposed Ordinance No. 3633 could prevent free speech and that the proposed ordinance poses constitutional issues, which could cause potential litigation against the City.

**Joey Racano**, representing Ocean Outfall Group, spoke against the existing AES power generating plant and displayed dead plankton to Council. Mr. Racano urged Council to vote against proposed Ordinance No. 3633, citing demonstrations concerning the proposed desalination plant. Mr. Racano stated his opposition to a proposed desalination plant.

**R. S. Bolinger** spoke in opposition to proposed Ordinance No. 3633 as preemptive of freedom of speech and the right to public assembly. Mr. Bollinger urged Council to reject the proposed ordinance.

**Ethan Berry** spoke in opposition to proposed Ordinance No. 3633 relative to what he believes would be detrimental to civil liberties. Mr. Berry spoke concerning the possibility of selective enforcement of the ordinance.

**Rachel Douglas**, representing Orange County Young Democrats, spoke in opposition to proposed Ordinance No. 3633 relative to the effect on civil liberties and the possibility of selective enforcement of the ordinance.

**Jim Moreno** spoke in opposition to proposed Ordinance No. 3633. Mr. Moreno stated his belief that the striking grocery workers have a right to picket and urged positive action to end the grocery strike.

**Bob Osterhoudt** stated his credentials and spoke in opposition to proposed Ordinance No. 3633. He stated his belief that the proposed ordinance is preemptive of freedom of speech. Mr. Osterhoudt urged the celebration of freedom at the Fourth of July Centennial celebration of the Fourth of July Parade in City of Huntington Beach.

**Douglas C. Traub**, President of Huntington Beach Conference and Visitor's Bureau, spoke in favor of a Fourth of July fireworks display at the beach. He stated his belief that a Fourth of July beach fireworks display would promote tourism and patriotism. Mr. Traub urged Council to approve the agenda item concerning beach fireworks.

**Mike Shrubsole** spoke in opposition to proposed Ordinance No. 3633. He stated his belief that the proposed ordinance is preemptive of the right to public assembly. Mr. Shrubsole urged Council to oppose the proposed ordinance.

**John Earl** stated his opposition to proposed Ordinance No. 3633 as preemptive of freedom of speech and the right to public assembly, stating the possibility of selective enforcement of the ordinance.

**Josh Boyle**, representing O. C. Peace, spoke in opposition to proposed Ordinance No. 3633. He stated his belief that the proposed ordinance was precipitated by the United Food and Commercial Workers (U.F.C.W.) strike. Mr. Boyle stated his belief that the proposed ordinance poses constitutional issues.

**George Giacoppe** stated his credentials and spoke in opposition to proposed Ordinance No. 3633. Mr. Giacoppe spoke concerning his belief that issues relating to the proposed ordinance could prevent free speech and the proposed ordinance poses constitutional issues.

**Joseph Jeffrey** spoke in favor of Measure E on the March 2, 2004 ballot. He announced campaign headquarters at 16541 Gothard Street, #101, Huntington Beach, Phone: 225-3864 and the website at [www.hbfairdistricts.com](http://www.hbfairdistricts.com). Mr. Jeffrey invited Councilmembers to a kickoff event on January 23, 2004 at 11:00 a.m.

**Gerald Caterina** stated reasons why he believes the City is not enforcing the infill ordinance. He recommended a solution of shortening a deck to protect the privacy of a bedroom in his home. Mr. Caterina announced a lawsuit has been filed. Mr. Caterina informed Council of his telephone number.

Mayor Cathy Green requested that Mr. Caterina fill out a blue contact card for City Attorney Jennifer McGrath.

**Marinka Horach** spoke in opposition to Measure E - Districting Measure on the March 2, 2004 Special Municipal Election ballot. She spoke concerning the issues relating to the Districting Charter Amendment Measure stating she believes Measure E would be detrimental to the City of Huntington Beach due to reasons of dividing the City into five districts and reduction of representation.



**Tim Geddes** stated his opposition to Measure E - Districting Charter Amendment Measure on the March 2, 2004 Special Municipal Election ballot due to his belief that it would cause a reduction of representation. Mr. Geddes spoke in opposition to proposed Ordinance No. 3633, stating his belief that there are existing laws for the same purpose. Mr. Geddes spoke in favor of a Fourth of July fireworks display at the beach.

**Don McGee** spoke in opposition to proposed Ordinance No. 3633 stating his belief that the proposed ordinance poses constitutional issues. Mr. McGee informed Council that he believes there is insufficient directional signage on Beach Boulevard/Highway 39.

**Jim Erwin** stated his opposition to proposed Ordinance No. 3633 as preemptive of freedom of speech and the right to public assembly. Mr. Erwin spoke concerning the possibility of selective enforcement and potential litigation against the City with the passage of proposed Ordinance No. 3633.

**(City Council) Approved Request to Bring Forward Agenda Item Regarding Ordinance No. 3633 Amending the Huntington Beach Municipal Code Chapter 9.20 Relating to Prohibited Public Conduct Regarding Prohibited Equipment – Guidelines For Length and Size of Poles and Lumber For Signs Such as Demonstration or Picket Signs ( . )**

Councilmember Boardman requested that the agenda item concerning adoption of Ordinance No. 3633 be brought forward as the first agenda item to be considered at the meeting.

A motion was made by Boardman, second Cook to move forward for consideration the agenda item concerning proposed Ordinance No. 3633 Amending the Huntington Beach Municipal Code Chapter 9.20 Relating to Prohibited Public Conduct Regarding Prohibited Equipment – Guidelines For Length and Size of Poles and Lumber For Signs Such as Demonstration or Picket Signs. *“An Ordinance of the City of Huntington Beach Amending Chapter 9.20 of the Huntington Beach Municipal Code Relating to Prohibited Public Conduct.”* (Approved for Introduction on January 12, 2004.)

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen

NOES: None

ABSENT: None

**(City Council) Approved Request to Bring Forward Agenda Item Submitted By Councilmember Pam Houchen Regarding the Fourth of July (4<sup>th</sup> of July) Board to Relocate the Fireworks Display to the Beach for Centennial Year 2004 Only And Return to Council With a Financial Plan to Cover Costs of the Event ( . )**

Councilmember Houchen requested her agenda item concerning the Fourth of July Board relocating the fireworks display to the beach for centennial year 2004 only and returning to Council with a financial plan to cover costs of the event be brought forward as the second agenda item to be considered at the meeting.

A motion was made by Houchen, second Cook to move forward for consideration, following the agenda item concerning proposed Ordinance No. 3633, the agenda item regarding the Fourth of July (4<sup>th</sup> of July) Board to Relocate the Fireworks Display to the Beach for Centennial Year 2004 Only And Return to Council With a Financial Plan to Cover Costs of the Event ( . )

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook, Houchen  
NOES: None  
ABSENT: None

**(City Council) Continued to a Date Uncertain (To Clarify Parades and Revisit Code Sections) Ordinance No. 3633 Amending the Huntington Beach Municipal Code Chapter 9.20 Relating to Prohibited Public Conduct Regarding Prohibited Equipment – Guidelines For Length and Size of Poles and Lumber For Signs Such as Demonstration or Picket Signs (640.10)**

The City Council considered a communication submitted by the Police Chief informing Council that the City of Huntington Beach Municipal Code currently has no ordinance regulating demonstrations. There are no guidelines regarding the length or size of poles and lumber used during these events. The materials used for banners or inflatable devices are not regulated. Often, these items are used in a manner that creates public safety issues.

There have been increases in public demonstrations and protests due to the recent war activity and local union issues with the grocery stores. Occasionally these public assemblies become unlawful and police action is needed to protect the community interest.

The City Council considered proposed **Ordinance No. 3633** – *“An Ordinance of the City of Huntington Beach Amending Chapter 9.20 of the Huntington Beach Municipal Code Relating to Prohibited Public Conduct.”* (Approved for Introduction on January 12, 2004.)

Considerable discussion was held among Council concerning proposed Ordinance No. 3633.

City Attorney Jennifer McGrath responded to inquiries by Council and staff.

Police Chief Kenneth Small presented an oral report and responded to inquiries by Council and staff.

A motion was made by Sullivan, second Coerper to continue Ordinance No. 3633 to a date uncertain in order to clarify parades and revisit code sections.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Houchen  
NOES: Hardy, Boardman, Cook  
ABSENT: None

**(City Council) Directed the Fourth of July (4<sup>th</sup> of July) Board to Proceed with Plans for a Fireworks Display at Either the Huntington Beach High School or Huntington Beach Sports Complex ( . )**

The City Council considered a communication from Councilmember Pam Houchen transmitting the following **Statement of Issue:** This year is the 100<sup>th</sup> anniversary of our city's longest held community tradition, the Huntington Beach 4<sup>th</sup> of July Celebration. For the past three years, the 4<sup>th</sup> of July Executive Board has requested that the City Council grant approval to hold the evening fireworks at the beach. This year, once again, the Board has recommended that the fireworks be held at the beach in 2004 to commemorate the centennial. The Board is asking that this be a one-time relocation, for one year only.

Cancellation of the 2003 4<sup>th</sup> of July (Fourth of July) Fireworks show brought an outpouring of unfavorable comments from the community as well as from annual visitors who flocked to Huntington Beach on the 4<sup>th</sup> of July. In addition there was a proliferation of illegal fireworks confiscated this past year. The Centennial celebration calls for events that stand out as unique to the 100<sup>th</sup> celebration. The Parade Board is working to add special crowd pleasers to the overall program. A beach fireworks show will insure the display and program to be the second largest on the west coast and worthy of a 100-year celebration.

The community has changed considerably since the 1970's, when fireworks were last held on the beach and the holiday has been problem free for years. I am bringing this as an "H" item for the Council's consideration because if we were to hold the fireworks on the beach, the Board would need to work with public safety and sponsors on the planning of the event. The Board believes that adequate sponsorship can be in place to cover the additional costs of the fireworks show and the additional public safety required.

Councilmember Houchen reported. She stated reasons why she believes a fireworks display should be returned to the beach for the Fourth of July celebration.

Considerable discussion was held between Council and staff concerning a Fourth of July fireworks display at the beach.

Police Chief Kenneth Small responded to Council inquiry relative to fireworks on the beach versus the Huntington Beach Sports Complex concerning staffing and cost issues.

Community Services Department Facilities Development and Concessions Manager David Dominguez reported concerning spectators and parking capacities.

Fire Chief Duane Olson reported regarding safety issues.

**(City Council) Motion Failed to Relocate Fireworks Display to the Beach for Centennial Year Only and Motion Failed to Return to the Council with a Financial Plan to Cover Costs for the Event - Motion Approved to Direct the Fourth of July Board to Proceed with Plans for a Fireworks Program Either at the Huntington Beach High School or the Huntington Beach Sports Complex ( . )**

A motion was made by Houchen, second Hardy to:

1. Give the 4th of July Board approval to plan to relocate the fireworks display to the beach for the centennial year only;

**and**

2. Return to the Council with a financial plan to cover costs for the event.

The motion **failed** by the following roll call vote:

AYES: Hardy, Cook, Houchen

NOES: Sullivan, Coerper, Green, Boardman

ABSENT: None

A motion was made by Sullivan, second Green to:

Direct the Fourth of July Board to proceed with plans for a fireworks program either at the Huntington Beach High School or the Huntington Beach Sports Complex.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Houchen

NOES: Cook

ABSENT: None

**(City Council) Mayor Pro Tem Hardy Thanked the Community Services Commission on Behalf of the Huntington Beach High School Football Team ( . )**

Mayor Pro Tem Jill Hardy reported that the Huntington Beach High School football team gave the Community Services Commission a signed team photograph to thank the Commission for a grant to improve the football locker room.

**(City Council) Reviewed and Accepted Shari Freidenrich, City Treasurer's November 2003 Report Titled *City of Huntington Beach Summary of City Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity* (310.20)**

The City Council considered a communication from City Treasurer Shari Freidenrich transmitting the Monthly Investment Report for November 2003.

City Treasurer Shari Freidenrich gave a PowerPoint presentation titled *November Treasurer's Report Shari L. Freidenrich, CPA, CCMT, CFMA January 20, 2004*, which was included in the agenda packet.

A motion was made by Boardman, second Cook to review and accept the monthly report. Following review of the report, by motion of Council, accept the Monthly Investment Report *Summary of Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity for November 2003*, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach. The motion carried by the following roll call vote:

AYES: Sullivan, Hardy, Green, Boardman, Cook

NOES: Cook

ABSENT: None (Coerper, Houchen out of room)

**(City Council) Public Hearing Held for the Annual Review of the Holly-Seacliff Development Agreement No. 90-1 (Located between Ellis Avenue on the North, Huntington Street on the East, Edwards Street on the West, and the Seacliff Golf Course on the South) – Accepted the 2003 Annual Compliance Report (600.10)**

The City Council considered a communication from Planning Director Howard Zelefsky.

Mayor Green announce that this was the time noticed for a public hearing to consider the following:

**Applicant:** City of Huntington Beach

**Request:** Annual review of the Holly-Seacliff Development Agreement Compliance Report.

**Location:** Approximately 490 acres located between Ellis Avenue on the north, Huntington Street on the east, Edwards Street on the west, and the Seacliff Golf Course on the South.

**Environmental Status:** This agenda item is categorically exempt from the provisions of the California Environmental Quality Act.

Legal notice as provided to the City Clerk's Office by staff had be mailed, published and posted.

A PowerPoint presentation titled *Annual Holly Seacliff Development Agreement Compliance Report* which was included in the agenda packet.

Planning Director Howard Zelefsky did not present the PowerPoint report due to time constraints.

Mayor Green declared the public hearing open.

**Bill Holman**, representing developer PLC Land Company, stated he was available to answer questions concerning the Holly-Seacliff Development Annual Compliance Report. Mr. Holman urged Council to approve the report.

There being no persons present to speak further on the matter and there being no further protests filed, either written or oral, the Mayor declared the public hearing closed.

Mayor Pro Tem Hardy announced she would abstain from voting due to a possible conflict of interest because she resides near the Holly Seacliff property.

Councilmember Cook announced she would abstain from voting due to a possible conflict of interest because she resides near the Holly Seacliff property.

Director of Library Services Ron Hayden responded to for Councilmember Sullivan's inquires regarding Library Development Fees and Community Enrichment Fees.

A motion was made by Sullivan, second Boardman to: Determine that the Developer is in compliance with the Holly Seacliff Development Agreement No. 90-1 by accepting *The 2003 Annual Holly-Seacliff Development Agreement Compliance Report* and authorize the Mayor and City Clerk to sign and execute the *Certificate of Development Agreement Compliance* (Attachment No. 2) and direct the City Clerk to record said Certificate with the Orange County Recorder.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman

NOES: None

ABSENT: (Houchen out of room)

ABSTAIN: Hardy, Cook

#### **Consent Calendar – Items Removed for Separate Discussion**

The following items were removed from the Consent Calendar for separate discussion:

(City Council) Automatic Aid Mutual Response Agreement for the Exchange of Fire, Rescue, and Emergency Medical Services between the City of Huntington Beach and the City of Newport Beach- Fire Chief or His Designee to Execute Future Agreements

(City Council) Resolution No. 2004-2 Amending the City Council Manual by Revising the City's Code of Ethics – Annual Review

#### **Consent Calendar – Items Approved**

On motion by Boardman, second Cook Council approved the following Consent Calendar items, as recommended. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook

NOES: None

ABSENT: None (Houchen out of room)

**(City Council) Accepted Rainbow Disposal's Donation for One Additional Trash Collection on Friday and Saturday in January and February 2004 and Friday, Saturday and Sunday for March, April, May and June 2004 – Downtown Trash Can Service Schedule (600.45) – 1.** Accepted Rainbow Disposal's offer to donate the cost for one additional trash collection on Friday and Saturday in January and February, and on Friday, Saturday and Sunday in March, April, May and June of 2004; and **2.** Reverted to the pre-existing schedule after the six-month increased weekend collection donated by Rainbow Disposal. Submitted by the Public Works Director. Funding Source: Funding of \$57,025.00 for downtown trash collection is currently budgeted in the General Fund Refuse Account.

Councilmember Houchen reversed the earlier announcement made to remove the above agenda item from the agenda for separate consideration.

**(City Council) Approved Sole Source Procurement from Stewart & Stevenson Power, Inc., of Corona, California for the Purchase of Waukesha Natural Gas Engines (By Request of the Public Works Utilities Division)** ( . ) – Approved Sole Source Procurement from Stewart & Stevenson Power, Inc., of Corona, California, for the purchase of Waukesha natural gas engines. Submitted by the Public Works Director. Funding Source: Funds are budgeted in Water Fund Account (\$350,000.00) and in the General Fund Account (\$135,000.00) for replacement of natural gas engines.

**(City Council) Approved Dissolution of the Legal Affairs Committee Due to Hiring of In-House Trial Attorney** (100.10) – Dissolved the Legal Affairs Committee. Submitted by the City Attorney. Funding Source: Not applicable.

**(City Council) Approved Professional Services Budgeted Expenditure for Monitoring of Landfill Gas System at Huntington Beach Central Park Sports Complex- (Authorized in Contract with Bryan A. Stirrat & Associates)** (600.10) – Authorized expenditure not to exceed \$150,000.00 from Adult Sports business unit for professional service contract for monitoring of landfill gas system at the Huntington Beach Sports Complex. Submitted by the Community Services Director. Funding Source: The action requested does not require a new appropriation. Funds were previously included in the general Fund, Adult Sports, Repairs and Maintenance Account for fiscal year 2003-2004.

**(City Council) Approved the Agreement between the City and County of Orange to Transfer Funds to the City for Fiscal Year 2002 State Domestic Preparedness Grant for the Purchase of WMD (Weapons of Mass Destruction) Equipment** (600.25) – Approved the attached *Agreement to Transfer Funds for Fiscal Year 2002 State Domestic Preparedness Grant* Purposes authorizing the County of Orange to release State Office of Domestic Preparedness funds to the City of Huntington Beach for the purchase of (WMD) Weapons of Mass Destruction equipment and authorized the Mayor and City Clerk to execute same. Submitted by the Fire Chief. Funding Source: The State Office of Domestic Preparedness through the County of Orange as the Orange County Operational Area lead agency.

**(City Council) Approved Amendment No. 2 of Professional Services Contract between the City and Walden & Associates for Engineering Services for CC-1095, CC-1142, CC-1162 and CC-1166** (600.10) – **1.** Authorized an exemption to Section 3.03.120 of the Huntington Beach Municipal Code to allow extension of a professional services contract beyond the term of three years; and **2.** Approved and authorized the Mayor and City Clerk to execute *Amendment No. 2 to Agreement Between the City of Huntington Beach and Orange County Walden, Inc., dba Walden & Associates for Engineering Services*. Submitted by the Public Works Director. Funding Source: Funds are budgeted in the Brookhurst/Adams Intersection OCTA grant; CDBG Storm Drain Improvements and Newland Street Widening, Traffic Impact Fund. Additional work will not exceed \$75,000.00.

**(City Council) Accepted Bid and Awarded Contract to Palp Inc., dba Excel Paving Company for Pavement Rehabilitation at Traffic Signal Loops at Approximately 45 Locations; MSC418** (600.55) – **1.** Accepted the lowest responsive and responsible bid submitted by Palp Inc., in the amount of \$187,600.00 for Pavement Rehabilitation at Traffic Signal Loops at Various Locations; MSC 418; and **2.** Approved and authorized the Mayor and City Clerk to execute the *Agreement between the City of Huntington Beach and Palp, Inc, DBA Excel Paving Company for Pavement Rehabilitation at Traffic Signal Loops in Various Locations in the City (MSC 418)*. Submitted by the Public Works Director. Funding Source: Measure M funds in the amount of \$200,000.00 were budgeted in Gas Tax Fund, Intersection Pavement Replacement in Fiscal Year 2002-2003.

**(City Council) Adopted Resolution No. 2004-3 Amending Resolution No. 2003-64 Modifying Water Quality Inspection Fees** (340.20) – Adopted **Resolution No. 2004-3** - “A Resolution of the City Council of the City of Huntington Beach Amending Resolution No. 2003-64 and the Water Quality Inspection Fees Levied by the Public Works Department Pursuant to the City’s Comprehensive Fee Schedule (Supplemental Fee Resolution No. 1).” Submitted by the Public Works Director. Funding Source: Annual General Fund revenues of approximately \$63,5000.00 have been included in the budget projections.

**(City Council) Adopted Resolution No. 2004-4 Approved the Application for Grant Funds for the Murray-Hayden Program Under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002** (340.80) – Adopted **Resolution No. 2004-4** - “A Resolution of the City of Huntington Beach Approving the Application for Grant Funds for the Murray-Hayden Program Under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002.” Submitted by the Community Services Director. Funding Source: State of California, Murray-Hayden Program.

**(City Council) Approved the Automatic Aid Mutual Response Agreement for the Exchange of Fire, Rescue, and Emergency Medical Services between the City of Huntington Beach and the City of Newport Beach- Authorized as Amended the Fire Chief or His Designee to Execute Future Agreements - Amended To Add: Subject to City Council Approval** (600.10)

Councilmember Sullivan requested that this agenda item be removed from the Consent Calendar to discuss his belief that Automatic Aid Mutual Response Agreements should be approved by Council.

Fire Chief Duane Olson responded to Councilmember Sullivan’s concerns.

A motion was made by Sullivan, second Coerper to: **1.** Approve and authorize the Mayor and City Clerk to execute the Automatic Aid Agreement for the Exchange of Fire, Rescue, and Emergency Medical Services between the City of Huntington Beach and the City of Newport Beach; and **2.** Authorize **as amended** the Fire Chief or his designee to execute future agreements, **subject to City Council approval**, with the City of Newport Beach for the exchange of fire, rescue, and emergency medical services. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook  
 NOES: None  
 ABSENT: None (Houchen out of room)



**(City Council) Adopted Resolution No. 2004-2 Amending the City Council Manual by Revising the City's Code of Ethics – Conducted the Annual Review (110.40)**

Mayor Pro Tem Hardy requested that this agenda item be removed from the Consent Calendar to receive clarification concerning gift limits.

City Attorney Jennifer McGrath reported at the request of Mayor Pro Tem Hardy.

A motion was made by Hardy, second Cook to: **1. Adopt Resolution No. 2004-2 - "A Resolution of the City Council of the City of Huntington Beach Revising the City's Code of Ethics and Amending the City Council Manual"** incorporating the changes made at the January 5, 2004 City Council Meeting; and **2. Direct the City Clerk to record in the official minutes that the Code of Ethics was presented to the City Council, the City Administrator, Chairpersons, and City Department Directors for their review and distribution as required.** The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook

NOES: None

ABSENT: None (Houchen out of room)

**(City Council) Approved City Council Position on Legislation Pending Before the Federal, State, or Regional Governments as Recommended by the City Council Intergovernmental Relations Committee (IRC) ( . )**

The City Council considered a communication from Mayor Pro Tem Jill Hardy, Chair, Intergovernmental Relations Committee, on behalf of members, Councilmember Connie Boardman and Councilmember Debbie Cook transmitting the following **Statement of Issue**: Should the City Council authorize the Mayor to communicate the City of Huntington Beach's support for or opposition to legislation currently pending before the elected members of the State Legislature, a regional body or to be put on a ballot for approval by the voters? The City Council Intergovernmental Relations Committee has reviewed the legislation below and is recommending that the City Council take a position on these items, and authorize the Mayor to send letters to the legislators reflecting the approved position:

Mayor Pro Tem Hardy reported on the Internet Tax Freedom Act of 1998 in response to inquiries by Councilmember Sullivan and Councilmember Coerper.

A motion was made by Hardy, second Boardman to:

**Approve the City Funding Priorities List** for the coming Legislative year as attached; and

**Oppose permanently** extending the Internet Tax Freedom Act of 1998 as proposed in Federal bills **S 150 (Allen)** and **HR 49 (Cox)**.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Boardman, Cook

NOES: Green

ABSENT: (Houchen out of room)

**(City Council) Continued from January 5, 2004 Meeting - Approved Locals Night Downtown Free Parking Trial Promotion for Tuesday Nights in February or March in the Main Promenade Parking Structure – (Includes Possible Fiscal Impacts of Promotion) (340.10)**

The City Council considered a communication from Economic Development Director David Biggs transmitting the following **Statement of Issue**: Downtown retailers and restaurants are working to encourage more locals to shop and dine in Downtown Huntington Beach, especially in the off-season. It is proposed that the City provide local residents with a coupon to be mailed with water bills to offer up to three hours of free parking in the Main Promenade Parking Structure on Tuesday nights in February or March. Funding Source: The cost to produce the coupon for mailing in water bills is being funded through the Economic Development Department budget. The usage of the coupon will be tracked during the trial period and the increase or decrease in parking revenues will be determined following the trial promotion and compared to the same period in prior years.

Communication from Economic Development Director dated January 6, 2004 titled *Possible Fiscal Impacts of Trial Free Parking Promotion* was included in the agenda packet.

Economic Development Director David Biggs provided information to Council. He stated his support for the proposed program which he believes will interest local residents.

Discussion was held between Council and staff concerning the potential for loss in sales tax and revenue due to the proposed trial free parking promotion.

A motion was made by Sullivan, second Coerper to: Approve Locals Night Downtown Free Parking Trial Promotion for Tuesday nights in February or March in the Main Promenade Parking Structure.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green  
NOES: Boardman, Cook  
ABSENT: (Houchen out of room)

**(City Council) Adopted Ordinance No. 3631 Levying Special Taxes Within the City of Huntington Beach Community Facilities District (CFD) No. 2003-1 (Huntington Center – Bella Terra) (350.30)/(640.10)**

The City Council considered a communication submitted by Economic Development Director David Biggs and Administrative Services Director Clay Martin informing Council that on October 2, 2000, the Redevelopment Agency of the City of Huntington Beach entered into an Owner Participation Agreement (OPA) with Huntington Center Associates, LLC for the redevelopment of Huntington Center. On February 3, 2003, the City established Community Facilities District No. 2003-1 for that purpose. The actions recommended below are necessary to issue up to \$25 million in CFD bonds.

After Assistant City Clerk Liz Ehrling read by title, a motion was made by Sullivan, second Hardy to adopt **Ordinance No. 3631** – *“An Ordinance of the City Council of the City of Huntington Beach Levying Special Taxes within the City of Huntington Beach Community Facilities District No. 2003-1 (Huntington Center).”* (Approved for Introduction at CFD Public Hearing January 5, 2004) The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook

NOES: None

ABSENT: (Houchen out of room)

**(City Council) Mayor Cathy Green Re-Announced Public Forum Re: Recruitment of City Administrator ( . )**

Mayor Cathy Green announced a Public Forum regarding recruitment of the next City Administrator, scheduled to be held on Monday, January 26, 2004 at 6:30 p.m. in the Talbert Room at Central Library.

Councilmember Boardman clarified the Public Forum is for the City Council to receive input from the public as to attributes desired and not for the actual selection of the next City Administrator.

**Adjournment – City Council/Redevelopment Agency**

Mayor Green adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to Monday, February 2, 2004, at 5:00 p.m., in Room B-8 Civic Center, 2000 Main Street Huntington Beach, California.

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City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach and Clerk of the Redevelopment Agency of the City of Huntington Beach, California

ATTEST:

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City Clerk-Clerk

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Mayor-Chairman